

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CHRISTOPHER OLEN BAKER)
vs.)
Plaintiff,)
vs.) NO. CIV-13-0190-HE
TIM WILKINSON, WARDEN,)
D. CASTRO, and KATHY MILLER)
Defendants.)

ORDER

Plaintiff Christopher Olen Baker, appearing *pro se*, filed this action pursuant to 42 U.S.C. § 1983 alleging his constitutional rights have been violated during his incarceration at the Davis Correctional Facility located in Holdenville, Oklahoma. He also has sought leave to proceed *in forma pauperis*.

Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Purcell, who has recommended that the action be dismissed without prejudice pursuant to 28 U.S.C. § 1406(a) for lack of venue. Because plaintiff alleged that all defendants reside in Holdenville, which is located in Hughes County, Oklahoma, and that the conduct underlying his claims occurred there, the magistrate judge concluded that venue is proper in the United States Court for the Eastern District of Oklahoma.

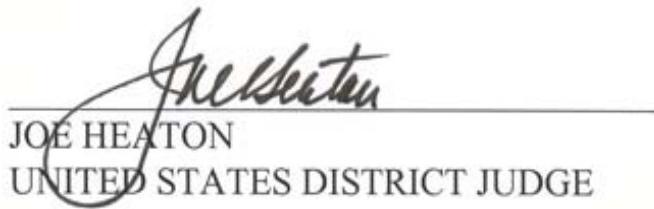
Plaintiff failed to object to the Report and Recommendation and thereby waived his right to appellate review of the issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996; *see* 28 U.S.C. § 636(b)(1)(C)).

Accordingly, the court **ADOPTS** Magistrate Judge Purcell's Report and Recommendation and dismisses this action without prejudice to refiling in the United States

Court for the Eastern District of Oklahoma. See 28 U.S.C. §§ 116(b),1391(b),1406(a). Plaintiff's motion to proceed *in forma pauperis* [Doc. #7] is **DENIED without PREJUDICE** to being renewed in the proper district court.

IT IS SO ORDERED.

Dated this 26th day of March, 2013.



JOE HEATON
UNITED STATES DISTRICT JUDGE